

## **BILL ANALYSIS**

Senate Research Center  
80R16637 HLT-F

C.S.S.B. 1175  
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Criminal Justice  
4/27/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Sexual violence in the state's prisons and jails, and the failure of government to address such violence, represents one of the most egregious human rights violations in this state. During 2005, 36 percent of sexual assault allegations by prisoners throughout the nation were from Texas prisoners. Limited institutional protection and recourse has made inmates who are the victims of sexual assault cope with long term psychological harm and sexually-transmitted diseases. These inmates, when released into society, are a public safety concern for all Texans.

C.S.S.B. 1175 establishes and sets forth the duties of an independent sexual assault ombudsperson who reports directly to the Texas Board of Criminal Justice. The bill also authorizes prisoners to submit grievances to the ombudsperson, establishes a civil remedy for these victims, standardizes the evidence collection process, specifically directs the Texas Department of Criminal Justice to collect evidence in accordance with Article 56.06 (Medical Examination for Sexual Assault Victim; Costs), Code of Criminal Procedure, requires the collection of statistical information on prison sexual assaults, and makes such information public.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 57.02, Code of Criminal Procedure, by adding Subsection (i), to provide that this article (Confidentiality of Files and Records) does not prohibit the the inspector general of the Texas Department of Criminal Justice (TDCJ) from disclosing a victim's identifying information to its ombudsperson if the victim is an inmate or state jail defendant confined in a facility operated by or under contract with TDCJ.

SECTION 2. Amends Article 57.03, Code of Criminal Procedure, by adding Subsection (c-1), to provide that it is an exception to the application of this article (Offense) that the person who discloses the name, address, or telephone number of a victim is the inspector general of TDCJ, the victim is an inmate or state jail defendant confined in a facility operated by or under contract with TDCJ, and the person to whom the disclosure is made is TDCJ's ombudsperson.

SECTION 3. Amends Chapter 501, Government Code, by adding Subchapter F, follows:

#### **SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES**

Sec. 501.171. DEFINITIONS. Defines "correctional facility" and "inmate."

Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. Requires the Texas Board of Criminal Justice (board) to appoint an ombudsperson to coordinate TDCJ's efforts to eliminate sexual assaults in correctional facilities. Requires the ombudsperson to report to the board.

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) Sets forth the powers and duties of the ombudsperson.

(b) Authorizes the ombudsperson to collect evidence and interview inmates or employees at correctional facilities in conducting an investigation of an inmate's complaint of sexual assault under this section.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY. Requires TDCJ to adopt a policy with provisions as set forth in this subsection relating to assisting an inmate who is a victim of sexual assault.

Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC CERTAIN INFORMATION. Requires the ombudsperson to make available to the public and appropriate state agencies certain information related to the ombudsperson's duties and statistical information as set forth in this section.

Sec. 501.176. ANNUAL REPORT. (a) Requires the ombudsperson to submit a written report regarding the ombudsperson's activities during the preceding fiscal year to certain governmental officials and entities set forth in this subsection not later than January 1 of each year.

(b) Requires the report to include public information as set forth in this subsection.

(c) Requires the report to meet the financial reporting requirements of the General Appropriations Act.

Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. Provides that this subchapter or other law related to the ombudsperson or the office of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other information, including witnesses and electronic data, that the auditor considers necessary for the audit, investigation, or other review.

Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED. Provides that this subchapter or other law related to the operation of the ombudsperson or inspector general's office does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321 (State Auditor) or other law.

SECTION 4. Makes application of Article 57.03(c-1), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 5. Requires TDCJ to appoint an ombudsperson and adopt a policy as required by Subchapter F, Chapter 501, Government Code, as added by this Act, not later than December 1, 2008.

SECTION 6. Requires the TDCJ ombudsperson to submit the first report required by Section 501.176, Government Code, as added by this Act, not later than January 1, 2009.

SECTION 7. Effective date: upon passage or September 1, 2007.